



JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

Carolyn K. Depoian
Senior Counsel
phone: (212) 356-2358
fax: (212) 356-3509
cdepoian@law.nyc.gov

March 2, 2020

VIA ECF

Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Tyrone Carthen v. Kamron Chase, et. al.,
19-cv-06392 (BMC) (LB)

Your Honor:

I am an attorney in the Office of James E. Johnson, Corporation Counsel of the City of New York.¹ On February 21, 2020, plaintiff filed an Amended Complaint that contains substantively identical allegations against the same twenty-eight defendants plaintiff named in his original Complaint. On January 23, 2020, the Court, *sua sponte*, dismissed twenty-five of these defendants. (*See* Civil Docket Sheet, Entry No. 4). Because the factual allegations are substantively identical in the Amended Complaint and the original Complaint, this Office writes to respectfully request that the Court again dismiss the twenty-five defendants plaintiff names in the Amended Complaint for the same reasons set forth in the Court's January 23, 2020 Order.

Absent further instruction from the Court, the remaining three defendants in this matter, Police Officers Kamron Chase, Juana Ortiz, and John Hunter, anticipate² that they will respond

¹ Please take notice that this case is assigned to Assistant Corporation Counsel Mostafa Khairy, who is presently awaiting admission to the Eastern and Southern Districts of New York and is handling this matter under my supervision. Mr. Khairy may be reached directly at (212) 356-2105 or mkhairy@law.nyc.gov.

² This Office does not yet represent these three police officers, but anticipates that decisions regarding their representation will be made prior to March 23, 2020.

to the Amended Complaint on March 23, 2020, in accordance with the Court's prior scheduling order.

By way of background, plaintiff filed the Complaint in this matter on November 12, 2019. (*See* Civil Docket Sheet, Entry No. 1). On January 23, 2020, the Court dismissed twenty-five of the twenty-eight named defendants in plaintiff's Complaint and granted plaintiff leave to file an Amended Complaint against thirteen of the twenty-five dismissed defendants.³ (*See id.* at 4, 5). As to these thirteen defendants, the Court Ordered that "the amended complaint must contain *express allegations* showing who each of these defendants are and what they are alleged to have done wrong." (emphasis added) (*Id.*).

On February 21, 2020, plaintiff filed his First Amended Complaint. (*See* Civil Docket Sheet, Entry No. 9). Although plaintiff's Amended Complaint contains an extra fifty-seven (57) pages, these pages consist of plaintiff's DMV driving records and other miscellaneous documents. The factual allegations plaintiff recites are substantively identical to his original Complaint. Plaintiff once again lists the same twenty-eight defendants that he sought to sue in his original Complaint, twelve of whom the Court dismissed with prejudice on January 23, 2020.⁴ These twelve defendants should once again be dismissed from the case, for the same reasons set forth in the Court's January 23, 2020 Order, and terminated from the Civil Docket sheet.

Rather than amending his Complaint to make "express allegations showing who each of these defendants are and what they are alleged to have done wrong," plaintiff's Amended Complaint instead contains identical factual allegations against the thirteen defendants for whom plaintiff was granted leave to amend. Thus, plaintiff has failed to comply with the Court's Order and these defendants, as well, should once again be dismissed from the case for the same reasons set for the in the Court's January 23, 2020 Order.

³ The thirteen (13) defendants are identified in the Complaint as Stuart Birbach, Henry Dechalus, Commissioner Mark J.F. Schroeder, Court Officer Shield Number 265, Court Officer Terry Napolitano, and Court Reporters Kimberly Vidals, Kimberly Williams, Nathan MacCormack, Raniesha Jeffries, Monica Jenkins, Julian K., Anna Znamenshchikova, and Dalila Cummings. (*See* Civil Docket Sheet, Entry No. 4, at 5).

⁴ The following twelve (12) defendants were dismissed with prejudice from this case: the New York City Police Department 79th Precinct, the Kings County District Attorney's Office, the Kings County Criminal Court, the New York State Department of Motor Vehicles, District Attorney Eric Gonzalez, Assistant District Attorney Shaneka McKellar, Judge Michael Yavinsky, Judge Edwin Novillo, Judge Archana Rao, Judge Joseph Gubbay, Judge Hilary Gingold, and James Smoot. (*See* Civil Docket Sheet, Entry No. 4, at 9-10).

Absent further instruction from the Court, this Office will make representation decisions regarding the remaining three Police Officer defendants and will respond to the Amended Complaint pursuant to the Court's February 11, 2020 Order by March 23, 2020. Thank you for your consideration herein.

Respectfully submitted,

Carolyn K. Depoian /s/
Carolyn K. Depoian
Senior Counsel
Special Federal Litigation Division

cc: **BY U.S. MAIL**
Tyrone Carthen
Plaintiff *Pro Se*
257 Norstrand Avenue, #525
Brooklyn, NY 11205